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April 19, 2012

**VIA E-FILING**

Jocelyn D. Boyd, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Application of Broadband Dynamics, LLC for Authority to  
Operate as a Reseller of Interexchange Telecommunications  
Services Within the State of South Carolina and to be Regulated  
in Accordance with Procedures Established for Alternative Regulation in  
Order Nos. 95-1734 and 96-55 in Docket No. 95-166-C.  
Docket No.: 2011-445-C

Dear Ms. Boyd:

Enclosed please find a Proposed Order submitted on behalf of Broadband Dynamics in the above-captioned docket which I would ask you to file. By copy of this letter we are serving all parties of record.

If you or counsel has questions, please feel free to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/jcl

Enclosure

cc: F. David Butler, Esquire - electronically  
Nanette S. Edwards, Esquire - electronically

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2011-445-C - ORDER NO. \_\_\_\_\_  
APRIL \_\_\_\_, 2012

IN RE: Application of Broadband Dynamics, LLC	)	ORDER GRANTING
for Authority to Operate as a Reseller of	)	CERTIFICATE AND
Interexchange Telecommunications Services	)	APPROVING
within the State of South Carolina and for	)	ALTERNATIVE
Approval of Alternative Regulation	)	REGULATION
	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Broadband Dynamics, LLC (“Applicant” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold long distance telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 and the rules and regulations of the Commission. By its Application, the Company also requests alternative regulation of its business interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed the Company to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state *affected* by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of The Company and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Applicant complied with this

instruction and provided the Commission with proof of publication of the Notice of Filing.

A hearing was convened on April 2, 2012, at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before F. David Butler, Hearing Examiner. The Company was represented by Scott Elliott, Esquire. The Office of Regulatory Staff (“ORS”) was represented by Nanette S. Edwards, Esquire. At the outset of the hearing, the Applicant and the ORS entered a Settlement Agreement into the record attached hereto as Order Exhibit 1.

Adam Dasuqi, Manager of Credit and Collections of the Company, testified in support of the Company’s Application. Mr. Dasuqi was authorized by Robert F. Rife, Manager and CEO of the Applicant to adopt and present Mr. Rife’s pre-filed testimony. (See Mr. Rife’s correspondence dated February 14, 2012, filed with the Commission March 30, 2012.) The record reveals that the Company is a limited liability corporation organized under the laws of the State of Arizona, which is registered to transact business in South Carolina. According to Mr. Dasuqi, the Company seeks authority as a reseller of interexchange services. Mr. Dasuqi explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. The Company intends to offer resold interexchange service throughout the State. Mr. Dasuqi also discussed the Company’s technical, financial, and managerial resources to provide the services for which it seeks authority.

Mr. Dasuqi further testified that the Applicant had incurred a small amount of revenue from intrastate long distance services and explained that the Applicant was



prepared to report all revenue and pay all tax-applicable fees and/or taxes as result from any intrastate revenue. As a consequence, the Applicant and ORS stipulated that Broadband Dynamics, LLC would report all revenues recognized prior to and subsequent to its having been granted a Certificate of Public Convenience and Necessity and remit all applicable fees and/or taxes.

With regard to technical, financial, and managerial capabilities, the Company's Application and Mr. Dasuqi's testimony both evidence that the Company's management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Applicant's witness also testified that the Company will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Mr. Dasuqi offered that approval of the Company's Application would serve the public interest.

The Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in another state. The Company also requests a waiver of any Commission policy that would require it to maintain its books under the Uniform System of Accounts ("USOA") method. The Company uses Generally Accepted Accounting Principles ("GAAP") to maintain its books. Therefore, according to the Company, it would create a hardship to maintain a separate accounting system.

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Applicant is organized under the laws of the State of Arizona as a limited liability corporation and is authorized to do business in South Carolina by the Secretary of State.

2. Applicant desires to operate as a provider of resold interexchange services in South Carolina.

3. We find that Applicant possesses the managerial, technical, and financial experience and capability to operate as a provider of resold interexchange services in South Carolina.

4. We find that the issuance of a Certificate of Public Convenience and Necessity to Applicant to operate as a reseller of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more competitive services.

5. The Company requests a waiver of 26 S.C. Code Ann. Regs. 103-610, and for waiver of any Commission policy that would require it to maintain its books under USOA. The Commission finds the Company's requested waivers reasonable and understands the potential difficulty presented to the Company should the waivers not be granted.

6. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

7. The Settlement Agreement between the Company and the ORS is fair and reasonable and in the public interest.

8. The parties' stipulation is approved and pursuant to the parties' stipulation, Broadband Dynamics, LLC shall report all revenues recognized prior to and subsequent to its having been granted a Certificate of Public Convenience and Necessity and all applicable fees and/or taxes.

### **CONCLUSIONS OF LAW**

1. The Commission concludes that Applicant possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Applicant and as set forth in its Application and the testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Applicant to provide resold intrastate interexchange telecommunications services.

4. The Commission adopts a rate design for Applicant for its residential interexchange services, if any, which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).



5. Applicant shall not adjust its residential interexchange rates for end-users, if any, below the approved maximum level without notice to the Commission and to the public. Applicant shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2008).

6. The Commission concludes that Applicant's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and

operator services, to be subject to a relaxed regulatory scheme identical to that granted to similarly situated interexchange carriers in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

7. We conclude that Applicant’s request for waiver of 26 S.C. Code Ann. Regs. 103-610 and use of the USOA should be granted. The waivers are not contrary to the public interest.

8. Because the Settlement Agreement between the Applicant and the ORS is fair, reasonable, and in the public interest, it is hereby approved.



9. Broadband Dynamics, LLC shall report all revenues recognized prior to and subsequent to its having been granted a Certificate of Public Convenience and Necessity and all applicable fees and/or taxes.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to The Company to provide intrastate interexchange services through its own facilities and by the resale of services authorized for resale by tariffs of carriers approved by the Commission within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, The Company shall file its revised tariff within thirty (30) days of receipt of this Order using the Commission's e-filing system. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Broadband Dynamics, LLC-ORS Settlement Agreement.

4. The Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Applicant changes underlying carriers, it shall notify the Commission in writing.

5. In addition to the financial filings required supra, The Company shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will

necessitate the filing of intrastate information. Therefore, The Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The South Carolina Universal Service Fund Contribution Worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the ORS.

6. In addition to the above, the Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the

Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

7. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

8. At the hearing, Applicant requested a waiver of 26 S.C. Code Ann. Regs. 103-610 and use of the USOA. The Commission finds Applicant’s requested waivers reasonable and understands the potential difficulty presented to Applicant should the waivers not be granted. The Commission therefore grants the requested waivers. However, Applicant shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Applicant shall promptly notify the Commission and ORS if the location of its books and records changes.

9. The Settlement Agreement between Broadband Dynamics, LLC and ORS is hereby approved.

10. This Order shall remain in full force and effect until further Order of the Commission.



BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
John E. Howard, Chairman

ATTEST:

\_\_\_\_\_  
David A. Wright, Vice Chairman  
(SEAL)